

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwasaki et al (4,794,164).

The reference discloses processes for producing polyarylene sulfide which are continuously producing PAS by reacting a sulfur source with a dihalogenated aromatic compound in an aprotic organic solvent, characterized by comprising at least one polymerization reaction step in which two phases of a polymer phase and a solvent phase are separated and in which the polymer phase corresponding to the dispersed phase comprising globular droplets (see col. 5, line 1 to last line) in that average grain size of from 0.25 to 3 mm. (see col. 7, line 12 onto col. 12, line 17 and in the Examples); and characterized by using an end terminator in the polymerization reaction step such as monohalo compound (see col. 7, lines 14-17).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2002-265603 of record on 1449.

The reference discloses a method for continuously producing the PAS by reacting a sulfur source with a dihalogenated aromatic compound in an aprotic solvent which is characterized by comprising at least one polymerization reaction process in which the polymer phase as a dispersing phase being a spherical liquid droplets.

The disclosure of the reference differs from the instant claims in that it does not disclose the use of an end terminator in the polymerization reaction step.

However, an end terminator is required to terminate the polymerization process to form the product. Therefore, it would have been obvious to one of ordinary skill in the art to add the claimed terminator into the claimed process since they have been shown to be effective in a similar system and thus would have been expected to provide adequate results. There is no showing of unexpected results derived from said use.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,982,312. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference is the claims in the reference do not disclose the use of an end terminator in the polymerization reaction step.

However, as stated above, an end terminator is required in the polymerization process to form the claimed product. Therefore, to add an end terminator into the claims of the reference to form the instant claimed process is the level of ordinary skill in the art and would have been obvious in the absence of a showing of unexpected results derived from said use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Truong whose telephone number is 571-272-1081. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Duc Truong/  
Primary Examiner, Art Unit 1796